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GENOMICS INSTITUTE OF THE
NOVARTIS RESEARCH FOUNDATION
10675 JOHN JAY HOPKINS DRIVE, SUITE E225
SAN DIEGO, CA 92121-1127

EXAMINER

MACIAS, CHANDA L

ART UNIT PAPER NUMBER

1643

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Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. Claims 1-20 are pending in the application and are currently subject to restriction.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-3, 5, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "SRP72" classified, for example, in class 435, subclass 375.

Group II. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "BLK" classified, for example, in class 435, subclass 375.

Group III. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "PKM2 like" classified, for example, in class 435, subclass 375.

Group IV. Claims 1-4, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "GSK3A" classified, for example, in class 435, subclass 375.

Group V. Claims 1-3, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "FLJ32312" / "DOBI" classified, for example, in class 435, subclass 375.

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Group VI. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "C-MYC" classified, for example, in class 435, subclass 375.

Group VII. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "FLJ12673" classified, for example, in class 435, subclass 375.

Group VIII. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "ROS 1" classified, for example, in class 435, subclass 375.

Group IX. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "ABL2" classified, for example, in class 435, subclass 375.

Group X. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "DAP4" classified, for example, in class 435, subclass 375.

Group XI. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "JNK3" classified, for example, in class 435, subclass 375.

Group XII. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "TCF 4" classified, for example, in class 435, subclass 375.

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Group XIII. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "VPS16" classified, for example, in class 435, subclass 375.

Group XIV. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "GUK1" classified, for example, in class 435, subclass 375.

Group XV. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "PRKCQ" classified, for example, in class 435, subclass 375.

Group XVI. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "PRKAA2" classified, for example, in class 435, subclass 375.

Group XVII. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "FLJ00156" classified, for example, in class 435, subclass 375.

Group XVIII. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "PRKCD" classified, for example, in class 435, subclass 375.

Group XIX. Claims 1-2, and 10-13 9, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "IRAK1" classified, for example, in class 435, subclass 375.

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Group XX. Claims 1-2, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "DVL2" classified, for example, in class 435, subclass 375.

Group XXI. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "TLK1" classified, for example, in class 435, subclass 375.

Group XXII. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "NLK" classified, for example, in class 435, subclass 375.

Group XXIII. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "GRAF" classified, for example, in class 435, subclass 375.

Group XXIV. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "GCK" classified, for example, in class 435, subclass 375.

Group XXV. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "AKT1" classified, for example, in class 435, subclass 375.

Group XXVI. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "ERK5" classified, for example, in class 435, subclass 375.

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Group XXVII. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "LYN" classified, for example, in class 435, subclass 375.

Group XXVIII. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "RPS6KA5" classified, for example, in class 435, subclass 375.

Group XXIX. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "BUB1" classified, for example, in class 435, subclass 375.

Group XXX. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "MUSK" classified, for example, in class 435, subclass 375.

Group XXXI. Claims 1, 6-7, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "FLJ21802"/ "MIRSA" classified, for example, in class 435, subclass 375.

Group XXXII. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "FGR" classified, for example, in class 435, subclass 375.

Group XXXIII. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "ACVRL1" classified, for example, in class 435, subclass 375.

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Group XXXIV. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "MEKK5" classified, for example, in class 435, subclass 375.

Group XXXV. Claims 1, 6, and 10-13 and 7-9, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "PIP5K1C" classified, for example, in class 435, subclass 375.

Group XXXVI. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "MAPKAPK2" classified, for example, in class 435, subclass 375.

Group XXXVII. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "RFT1" classified, for example, in class 435, subclass 375.

Group XXXVIII. Claims 1, 6, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "MKNK1" classified, for example, in class 435, subclass 375.

Group XXXIX. Claims 1, 6-8, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "JIK" classified, for example, in class 435, subclass 375.

Group XL. Claims 1, 6-7, 9, and 10-13, drawn to a method for identifying agents that modulate TRAIL- induced apoptosis comprising assaying the biological activity of "PLXNB1" classified, for example, in class 435, subclass 375.

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Group XLI. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "SRP72", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group XLII. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "BLK", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group XLIII. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "PKM2 like", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group XLIV. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "GSK3A", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group XLV. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "FLJ32312", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

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Group XLVI. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "C-MYC", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group XLVII. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "FLJ12673", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group XLVIII. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "ROS 1", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group XLIX. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "ABL2", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group L. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "DAP4", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

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Group LI. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "JNK3", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LII. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "TCF 4", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LIII. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "VPS16", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LIV. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "GUK1", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LV. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "PRKCQ", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

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Group LVI. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "PRKAA2", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LVII. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "FLJ00156", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LVIII. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "PRKCD", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LIX. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "IRAK1", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LX. Claims 14-20, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "DVL2", or a method for treating cancer comprising administering said agent, which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

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Group LXI. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "TLK1", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXII. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "NLK", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXIII. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "GRAF", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXIV. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "GCK", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXV. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "AKT1", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXVI. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "ERK5", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

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Group LXVII. Claims 14-18, drawn to method for modulating TRAIL induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "LYN", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXVIII. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "RPS6KA5", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXIX. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "BUB1", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXX. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "MUSK", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXXI. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "FLJ21802", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXXII. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "FGR", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

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Group LXXIII. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "ACVRL1", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXXIV. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "MEKK5", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXXV. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "PIP5K1C", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXXVI. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "MAPKAPK2", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXXVII. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "RFT1", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXXVIII. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "MKNK1", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXXIX. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "JIK", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

Group LXXX. Claims 14-18, drawn to method for modulating TRAIL-induced apoptosis activity of a cell comprising contacting the cell with an agent that modulates biological activity of "PLXNB1", which cannot be classified because the chemical and biological nature of the agent is not specified by the claims.

4. The inventions are distinct, each from the other because of the following reasons:

The inventions of Groups I-XL and XLI-LXXX are unrelated, or are otherwise patentably distinct, each from the other, for the following reasons:

The inventions of Groups I-XL are methods for identifying agents that modulate TRAIL- induced apoptosis, whereas the inventions of Groups XLI-LXXX are methods for modulating TRAIL-induced apoptosis activity of a cell.

Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, and different effects. See MPEP §§ 806.04 and 808.01. The instant specification does not appear to disclose that any of the inventions of Groups I-XL and XLI- LXXX are useable together. Therefore, inasmuch as the inventions of Groups I-XL and XLI- LXXX have different purposes, they are materially different processes for achieving different effects by different modes of action or operation, the inventions appear unrelated.

If not unrelated, the inventions of Groups I-XL and XLI-LXXX are patentably distinct, each from the others, for these same reasons. Furthermore, the inventions of the inventions of Groups I-XL and XLI-LXXX have acquired a separate status in the art, as evidenced by their different classifications and/or

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art-recognized divergence in subject matter. Because any of the inventions of Groups I-XL and any of the inventions of Groups XLI-LXXX are so distinct, the search required to examine claims directed to any one of the inventions is not the same, nor is it coextensive with the search required to examine claims directed to any other. Accordingly, different searches would have to be performed to examine claims directed to the inventions; and as such, an examination of any of the inventions of Groups I-XL and any of the inventions of Groups XLI-LXXX would constitute a serious burden.

The inventions of Groups I-XL are patentably distinct, each from the others, for the following reasons:

Although the inventions of Groups I-XL are processes for identifying agents that modulate TRAIL-induced apoptosis, they are processes for identifying agents that modulate the activity or function of different proteins comprising contacting those different proteins with candidate agents; therefore, the inventions of Groups I-XL are materially different processes comprising different process steps.

Similarly, although the inventions of Groups XLI-LXXX are processes for modulating TRAIL-induced apoptosis, they are processes comprising contacting or administering different agents that modulate the activity or function of the different proteins; thus, the inventions of Groups XLI-LXXX are also materially different processes comprising different process steps.

Moreover, each different polypeptide to which the claims are directed are structurally and/or functionally distinct from the others because each comprises a uniquely different amino acid sequence, has a different function or role, and/or is expressed by different cells, or subsets of cells. There is not a reasonable presumption that these polypeptides share any particularly identifying structural features; nor is there any such presumption that these polypeptides are modulated by the same agent. As such, each of the inventions of Groups I-XL comprising assaying the activity or function of a different protein in the presence of candidate agents is expected to identify different agents, which are capable of

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modulating the different proteins; and each of the inventions of Groups XLI-LXXX is expected to comprise administering a different agent, which is capable of modulating the activity or function of each of the different polypeptides.

Because the inventions of Groups I-XL and the inventions of Groups XLI-LXXX are distinct, each from the others, for these reasons, the search required to examine claims directed to any one of the inventions is not the same, nor is it coextensive with the search required to examine claims directed to any other. Thus, different searches would have to be performed to examine claims drawn to each of the different inventions. Because different searches would have to be performed, an examination of more than one would constitute a serious burden.

Since the inventions of Groups I-LXXX have been shown to be patentably distinct, and because the examination of more than one could not be made without serious burden, it is proper to restrict each from the other. See MPEP § 803.

5. Because these inventions are distinct for the reasons given above and also because the search required for any one group is not required for any other group and/or the inventions have acquired a separate status in the art as shown by their different classification or their recognized divergent subject matter, searching more than one invention encompassed by the claim would constitute a serious burden; therefore, restriction for examination purposes as indicated is proper.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Conclusion


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Macias, Ph.D. whose telephone number is (571) 272-9032. The examiner can normally be reached on Monday-Friday, 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, Ph.D. can be reached on (571) 272-0832. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chanda L. Macias, Ph.D.
Examiner
Art Unit 1643

clm
June 9, 2006


STEPHEN RAWLINGS
PRIMARY EXAMINER
ART UNIT 1643